

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4181 OF 2005

 Office notes, office :
 Memoranda of Coram, :
 appearances, Court's : Court's or Judge's Orders
 orders or directions :
 & Registrar's orders. :

Ms. Shobha Kaunekar h/f. Ms.
 Uma Wagle for the petitioners.

Mr. R.S. Apte for respondents 2
 to 4.

CORAM: SMT. RANJANA DESAI, J.**DATED: 29TH AUGUST, 2005.****P.C.:-**

In this writ petition, original plaintiff has challenged order dated 5/4/2005 passed by the City Civil Court at Bombay in Contempt Notice of Motion No.712 of 2005 in Notice of Motion No.217 of 2005 in S.C. Suit No.306 of 2005.

Shortly stated, it is the case of the plaintiff that despite the injunction order passed by the City Civil Court at Bombay on 19/1/2005 and

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even though a copy of the same was served on the defendants, the defendants have demolished the suit stall viz. "Aarey Sarita" Stall No.191, situated at Film City, Goregaon (E), Mumbai, where the plaintiff was conducting the business of "Arey Sarita Milk Centre". The plaintiff's prayer was for action against the defendants under Order 39 Rule 2-A of the Code of Civil Procedure, 1908 and for restoration of the suit stall.

I have heard the learned counsel appearing for the parties. The learned counsel for the petitioner has stated that the suit stall was the petitioner's only source of livelihood. In my opinion, in the circumstances of the case, rather than going into the merits of the case and expressing any opinion, it would be proper to direct the trial court to dispose of the suit expeditiously. The suit which is already expedited should be directed to be heard and disposed of within a period of one year. In the circumstances of the

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case, the following order will meet the ends of justice.

O R D E R

The trial court is directed to hear and dispose of S.C. Suit No.306 of 2005 as expeditiously as possible and, at any rate, within a period of one year from the date of receipt of this order by it. Both parties and their respective advocates should co-operate with the trial court so as to ensure expeditious disposal of the suit.

It is clarified that all contentions of both sides are kept open. Needless to say that the petitioner can always apply for amendment of the plaint and if such an amendment application is made, the trial court shall consider the same sympathetically and in accordance with law.

Writ petition is disposed of.

(SMT. RANJANA DESAI, J.)